

HIGH COURT HEARS TALK ON ELECTION

Appeal From Justice Phillips' Order Dissolving Injunction Against the Secretary of State Taken Up Yesterday

NEW COMPLICATION HAS BEEN PRESENTED

In One Respect, State Election Law Creating Canvassing Board Is Found to Be in Conflict With the Constitution

When the election case came before the supreme court for argument yesterday forenoon an entirely new feature was injected into it by a question put to Judge Carpenter, representing the attorney general, by Chief Justice Franklin when he asked Carpenter if the court should hold the election law valid and order an election this fall what would be done about a canvassing board. The question apparently took Carpenter unawares and he said candidly he had not considered that phase of the case. However, it was his opinion it might be necessary for the governor to convene the legislature in extraordinary session in order to supply what seems to be a serious defect in the law.

The argument, which began at 10 o'clock yesterday morning, had been in progress an hour and a half when the chief justice interposed his question. Several phases of the matter at issue had been suggested by each of the members of the court and these had brought out a number of points not discussed when the case came up in superior court before Judge Phillips. But it was when Chief Justice Franklin touched upon the question of a canvassing board, a feature that apparently has been overlooked by all the attorneys, that the most interesting phase of the argument was reached.

Justice Franklin called attention, in his question to Mr. Carpenter, to an apparent direct conflict between the language of the constitution and the language of the election law. "The constitution fixes specifically the duties of this court," the chief justice said. "These duties are to be solely judicial and it is expressly provided that we shall perform no other duties than those directed by the constitution. Now, there is a provision in this law which makes the chief justice a member of a board whose duty it shall be to canvass the election returns, and that duty is apparently in conflict with the constitutional provision. I ask you what would then be done in the event the court holds this election law valid? If the constitution prohibits the members of this court from acting in any other capacity than to perform the judicial duties as laid down by that instrument, and if it is an indispensable requisite that the canvassing board consist of three members, what, in your judgment, is to be done in the matter of canvassing the election returns?"

Judge Carpenter said he had not examined that feature of the case but he would say without having time to make an investigation, that there would seem to be no objection to the governor's issuing a proclamation for another special session, when this defect could be corrected.

It will be seen readily enough that this is an entirely new feature of the case and one which has heretofore escaped the notice of every one connected with the proceeding. Its result is to complicate still further the already badly complicated election matter; and after the argument was over and the court had taken the case under advisement, the point was finally discussed about the capital. The opinions were not wanting to the effect that this point alone will be decisive in rendering the election statute invalid.

There was one matter plainly observable as the case progressed and that was that the members of the supreme court have already taken the trouble to inform themselves pretty thoroughly about the points at issue. Their questions to counsel showed pretty conclusively that they are entirely familiar with all the various matters that have been discussed since the injunction proceeding was started in the lower court; and for this reason it is believed their decision will not be long delayed. However, they have asked that both sides submit briefs, which shall include the opinion of the case will be thoroughly digested before a decision is handed down. This opinion is expected by the end of the week.

In the course of Judge Carpenter's argument he was asked whether, if there should be no election next fall, the governor would be powerless to call a special session of the legislature after the first of next January. Judge Carpenter said he thought that undoubtedly the governor would have no such power. "The members of this legislature," he said, "under the provisions of the constitution will

MINE INSPECTOR'S OFFICE ORGANIZED

Forming of the Life Saving Corps Well Under Way.

The organization of the mine inspector's office under the administration of John Bolin, of Bisbee, who was appointed by Governor Hunt immediately following the creation of the department by the legislature, is now well along; and according to Mr. Bolin there is every reason to be satisfied with the work so far as it has progressed.

The organization of the life saving corps, as provided for by the statute creating the department, is well under way as this was one of the first matters to which the inspector gave his attention. Much attention also has been devoted recently to a division of the work coming under the direct supervision of the three deputies and that appointment has also been decided upon. Under the present arrangement the counties of Maricopa, Mohave and Yuma will be under the jurisdiction of the same deputy.

HEAT WAVE'S FIRST WEEK

It Has Been Bad Enough But Not Quite So Fierce as the Hot Blast Over the Country a Year Ago; Many Deaths

NEW YORK, July 10.—The heat wave which began to make itself felt in the eastern section of the country on the fourth of July continued today until the temperature rose above ninety, causing a score or more of scattered deaths and general suffering. For the first time there were indications that the siege was broken in the metropolis.

A few drops of rain, the first in two weeks, fell after sundown, and cooling breezes followed. The present siege does not appear likely to approach the record established a year ago when more than a third of the country experienced temperatures of nearly 100 during the first two weeks of July and a total of 1500 deaths was reported. The present heat wave has taken lives which can be numbered by scores instead of by hundreds.

In the city today the official temperature was 91 compared with 93 yesterday but notwithstanding the slight improvement there were ten deaths. A year ago the day was 25 degrees here.

Boston and other New England points report temperatures above 95 today with scattering deaths and many prostrations. The wave extended as far north as Montreal where the temperature was 96 and one death was reported.

SCORED BOTH

Prohibitionist Has no Use For Taft or Roosevelt.

ATLANTIC CITY, July 10.—The eleventh national prohibition convention got under way here today but the session progressed little beyond preliminary organization. A feature of the day was the address of temporary Chairman Clinton N. Howard of Rochester, known as "Little Giant" Howard who aroused the delegates to a high pitch of enthusiasm by roundly denouncing Taft and Roosevelt and the republican and democratic parties in general.

"We already have two whisky parties and don't need another," he shouted.

ACT OF DECENCY CALLED "CHIVALRY"

Why Mr. Bryan Modified His Ryan-Belmont-Morgan Resolution.

HELENA, July 10.—A pretty story of chivalry shown by William J. Bryan was told by Robert F. Rose of this city, formerly private secretary to the Nebraska senator, and who acted as his confidential stenographer at the Baltimore convention. "Before going to the convention," said Rose, "Mr. Bryan dictated to me his famous Ryan-Belmont-Morgan resolution and it contained a caustic reference to the steam roller methods of the republican national convention and stated that President Taft was the recipient of favors by the interests. On going to the hall Mr. Bryan being informed that Mrs. Taft was in the audience omitted all reference to Taft. I went to him after the resolution was adopted and asked if he had purposely omitted that part of the resolution dictated to me, or if it was an oversight. "I purposely omitted he said. Mrs. Taft occupied a box and I desired to do nothing which would subject her to humiliation."

THE WEATHER
WASHINGTON, July 10.—For Arizona, fair.

ON THE RUN GEN. OROZCO TALKS BRAVE

Rebel Chieftain Yet Professes Supreme Confidence That the Revolution Will Win or President Madero Will Resign

ARRIVED LAST NIGHT AT LATEST CAPITAL

The Insurrecto Commander Sneaked Into Juarez; the Federal Cavalry Shortening the Distance Between It and Rebel Rear Guard

VILLA AHUMADA, July 10.—General Orozco at six o'clock reached Villa Ahumada fifty-three miles south of Juarez, and he declared it probable that he would continue to Juarez tonight. Though not disclosing his immediate intentions, Orozco tonight expressed to an Associated Press correspondent accompanying him his absolute confidence in the ultimate triumph of the revolution. "There must be either the resignation of Madero or a prosecution of the revolution," he said. "The people of the state of Chihuahua began this revolution to win, and they will."

Every bridge and culvert on the Mexican Central north of Chihuahua is being destroyed. The destruction thus far has been complete to a point fifty miles north of Chihuahua city, and beyond to a few miles south of Juarez.

Federal cavalry were moving north today out of Chihuahua, according to the rebels' scouts. They had reached Corral, thirteen miles north of Chihuahua at noon today. Their forces numbered 1500 men under General Tellez and General Rabago, and carried several pieces of artillery. Twelve hundred rebel cavalry are at Laguna, fifty miles north of Chihuahua, but they probably will retire in the face of the federal forces.

General Orozco's arrival was the more inconspicuous as he rode into the rebel capital in a caboose coupled to an engine. He abandoned his private car on the way. Tonight marked the first time General Orozco had visited Juarez as a revolutionist. He was here last February when as a government officer he sought to restore order in the town which had just mutinied.

Less than a month later he accepted the leadership of revolutionists. The rebel chief went to the home of his father for the night. General Orozco's arrival was the more inconspicuous as he rode into the rebel capital in a caboose coupled to an engine. He abandoned his private car on the way. Tonight marked the first time General Orozco had visited Juarez as a revolutionist. He was here last February when as a government officer he sought to restore order in the town which had just mutinied.

MARKS PRONUNCIAMIENTO
WASHINGTON, July 10.—"Outrages in Mexico are becoming so frequent that this country cannot put up with them any longer. There'll be big developments in the Mexican situation in a few days."

This was the prediction of Senator Mark Smith of Arizona, at the White House today. He added that he had not talked about the Mexican situation with Taft.

"We have got to do something, issue a proclamation, or warn Mexico in some way," he said.

CITY IMPROVERS.

Yesterday's Session of National Municipal League.

LOS ANGELES, July 10.—The national municipal league in annual session here busied itself with discussions of various city problems in both the regular and parallel meetings. "Municipal finances and taxation" was the subject gone into from many sides, addresses being made by A. C. Toleydell of New York, William Hadley of Philadelphia, Dr. Jesse R. Burkes of Philadelphia and others.

The problem whether the state or city should regulate municipal questions was discussed by several including J. M. Eshleman of San Francisco, president of the railway commission of California and Leslie R. Works, formerly president of the Los Angeles board of public utilities. Robert S. Binkhard secretary of the New York City club spoke on "excesses of condemnation." Dr. Ernest S. Bradford of Washington discussed "Commission Government city planning."

"Effective housing campaigns" was treated by John Ihlder New York, and Rev. Gaynor W. Bartlett of Los Angeles. Cities which desire to entertain the league at the next convention include St. Paul, Washington, Nashville, New Haven, Minneapolis and Indianapolis.

COL. HERRING PASSES AWAY FULL OF DAYS

Death at Tucson Yesterday of the Man Who First Proposed Forty Years Ago the Establishment of Memorial Day

FOR A GENERATION RESIDENT OF ARIZONA

Attorney General of the Territory, Chancellor of University, Prominent in Practice of Law and in Republican Politics

TUCSON, July 10.—Col. William Herring, who in 1873, introduced in the New York legislature a bill first designating May 30 as Memorial Day, died here today aged 79.

Col. Herring was born at New Brunswick, N. J., in 1833. He was graduated from the Columbia College law school in 1866 and the same year he was admitted to the New York bar. He was for some time assistant district attorney of New York City. About 1876 he removed to Tombstone and took an active part in the mining litigation of that district. Later he was for several years chief counsel for the Copper Queen company and the Phelps Dodge interests in the southwest. He was appointed attorney general of the territory in 1890 by Governor N. O. Murphy and was chancellor of the University of Arizona from 1898 to 1902.

Col. Herring moved from Tombstone to Tucson about sixteen years ago and continued in the active practice of law until within the last three years during which he was not often seen at the bar because of failing health. Throughout his residence in Arizona he took an active part in republican politics.

He is survived by two daughters, Mrs. Thomas R. Sorin and Mrs. Selim Franklin of Tucson. The former has for several years been his partner in the law firm of Herring and Sorin.

NATIONAL TEACHERS FOR EQUAL SUFFRAGE

Some Other Things which Find Favor With the N. E. A.

CHICAGO, July 10.—Aside from electing E. T. Fairchild, of Topeka, president after a heated contest in which Chicago teachers were severely criticized by New York members for "behind the curtain tactics," the National Educational association today went on record as favoring woman's suffrage "because women teachers realize the responsibility of training the youth for citizenship."

The promotion of international peace, the investigation of teachers' salaries throughout the country with reference to the high cost of living, a uniform federal law for marriage and divorce, the promotion of plans for a national university, the extension by congress of plans for training in agriculture and domestic economy and other industrial work, the greater attention in the public schools to the health of children, the extension by congress of the work of the national bureau of education so as to "embody a group of competent men and women to study thoroughly the problem of rural education, city school administration, vocational education, sanitation and hygiene, including the training of teachers" and that school playgrounds provide at least a square rod for each pupil, were among the propositions advocated.

THE JUDGE SNORED
WHEN HE SLEPT

Witness Thought Drink Made Hanford Sleepy.

SEATTLE, July 10.—At the Hanford hearing today Miss Adella Parker, a high school teacher, member of the bar, and editor of a woman's suffrage paper, wrote that she had seen the judge intoxicated in street cars on two occasions. L. F. McMahon, an orchardist, formerly an editor and lawyer, said he was in court on one occasion, when, while an attorney was arguing a motion, the judge fell asleep, his head thrown back and the mouth open. After ten minutes, he said the judge awoke and the attorney began his argument all over.

The judge awoke with a snore that was heard all over the court room. "The judge snores when he sleeps. I think he falls asleep because of drinking," said the witness.

DID HE KNOW IN ADVANCE OF A CRIME?

Court Surprised in Darrow Trial by Effort to Establish Guilty Knowledge of Job Harriman of Times Disaster

SOCIALIST ENEMIES STARTED REPORT

Thereupon the Testimony in Darrow Case Turned to a Disclosure of Dissensions in the Socialist Party at Los Angeles

LOS ANGELES, July 10.—During the cross-examination of Job Harriman, a socialist leader of national prominence, in the bribery trial of Darrow, it was developed today that an effort had been made by his political enemies to indict Harriman for complicity in the dynamiting of the Los Angeles Times building months after the McNamara brothers had confessed and since the Darrow trial began.

This incident evoked a long period of oratory in which even the jurors participated in the defense of Harriman. The court apparently was more startled than Harriman when he was questioned by the district attorney as to his knowledge of the dynamiting of the newspaper plant.

In reply to an objection of the defense the district attorney declared that he was seeking to show that Harriman's relations with the dynamiters were more intimate than those of the attorney and that his connection with the jury bribing trial was more akin to that of a defendant.

According to questions read by the district attorney, Harriman is alleged to have said to E. H. Cantrell and Frank B. Merriman, the day after the Times was blown up: "It means that the boys are on the job."

Harriman emphatically denied ever making such a statement. He said that he knew the men had gone before the grand jury with such stories.

Then the witness narrated the trouble of the socialist party which had changed Cantrell and Merriman from ardent supporters of his, to his bitterest enemies. After receiving permission of the court Harriman went at length into the division of the socialist party between those advocating action and those who favored peaceful means, such as political action to advance the reforms contemplated by socialism.

"Did you ever say to Cantrell," pursued "that you had known for some time that preparations had been made to pull off that job?"

"I never did. I never said anything that could be construed into anything like it," replied Harriman. He made a similar reply to a query as to whether he had told Merriman that the "boys" knew in advance all about the plot to dynamite the Times.

Harriman was followed on the stand by Frank E. Wolfe a newspaper man, and candidate for city council on the socialist ticket during the Harriman campaign. He testified that he had an office in a suite occupied by the McNamara defense adjoining that of Harriman and that on the morning Bert Franklin and Harriman in the office. According to the witness he had been with Darrow during the time that Franklin had asserted he had received the alleged bribe money from Darrow.

ORIENTAL MYSTIC

Case of Gorman Tufts Goes to Jury for Verdict

LOS ANGELES, July 10.—The case of Gorman Tufts Jr., husband of the widow of A. Roe, a wealthy resident of Fort Worth, Texas, charged with having obtained \$100,000 from the wife by false pretenses, went to the jury today. The prosecution in its final address to the jury likened Tufts to a comic supplement character. The defense was equally sarcastic in closing. Tufts was known as an Oriental Mystic, founder of an East Indian cult, and was tried before on the same charge as a result of indictments brought against him. The previous trial ended in a disagreement.

PROBLEM OF THE PACIFIC

Board Appointed to Study a Means of Defense

WASHINGTON, July 10.—The broad plans of the army and navy joint board for the creation of an impregnable naval military station on the Pacific have taken form in an order just issued for the appointment of a board of army officers to meet at Honolulu July 31.

The board is instructed to "study the military problem of the Island of Oahu, on which Honolulu is situated, to determine a proper system for mobile defense, the necessary garrison, and report on mortar batteries and other fixed defense as a subordinate phase of the general problems of defense."

S. P. OIL LANDS HEARING POSTPONED

The Case is to be Resumed at Washington.

SAN FRANCISCO, July 10.—The government hearing in the case of the Southern Pacific company to determine whether fraud was committed in connection with the obtaining by the company of oil lands in Kern county valued at \$12,000,000 was adjourned today until July 29 when it will be resumed in Washington. It is expected that the hearing there will last ten days and then the investigators will return to California, where hearings will be held in this city and Bakersfield.

Attorney Lewers of the Southern Pacific was to have gone on the stand today to give further testimony in connection with the interception into the hearing of the mysterious woman in black, but his presence in Reno was necessary and he was excused temporarily.

TARIFF PLAN OF NEW PARTY

There Is Talk of Immediate Revision Downward But the Colonel Is Not Ready to Commit Himself Yet on Subject

OYSTER BAY, July 10.—An immediate revision of the tariff downward is likely to be one of the reforms demanded by the party headed by the former president. While the colonel was non-committal today regarding the course he would urge upon the convention of the new party, it developed from talk with a number of leaders who have conferred with Roosevelt in the last few days that the party doubtless will declare for an immediate revision.

According to the present program, the demand for action will be restricted, those schedules which in the opinion of the party heads obviously are too high. The woolen and cotton schedules are pointed out as the best examples. Whether the platform will enumerate specific schedules and pledge the party to scale them downward or content itself with a general declaration, has not been decided.

Roosevelt has been told that the sentiment of the country, especially in the west, where his largest measure of support is looked for, is emphatically in favor of quick action on the tariff. The ex-president feels, however, that his views as to the theory of the protective tariff are well known, and that it is for the convention to decide what course of action shall be adopted.

He said recently that he would adhere to the principle of protection, as regards the democratic plank on the tariff as either an insincere document for campaign uses or an avowal which it literally fulfilled would work the ruin of the country. The colonel said he would soon make a statement upon the various issues to be raised in the campaign. The new party leader said his interest in the initiative, referendum and recall, is secondary to the ends which are demanded for accomplishment.

"They are part of a system to get justice," he said. "You can get my doctrines from my speeches. I am trying to get them practically in shape for the campaign, based on the idea which is to be the solution so far as possible of the great economic and social problems."

EVENTS OF SPEED AT GRAND RAPIDS

The Second Session of Grand Circuit Racing.

GRAND RAPIDS, July 10.—In the 2:20 pacing, purse \$1000, 3 in 5, Warner Hall won the fourth, fifth and sixth heats and the race; Jessie Clark won first and second; Jessie Direct won the third. The Assessor, Pigeon, Asa L., Catherine E., Maxine and Audubon started. The best time, 2:07 3/4.

For the Gift Line purse \$2000, 2:05 pacing, three in five, The Limite won second, third and fourth and the race; Zimbreer won first. Banham, Baughman, Ginner, Peter the Second, Jim Logan, Don Pronto and Major Brim started. The best time, 2:04 3/4.

The Furniture Manufacturers' purse \$1000, 2:12 trotting, three in five, was won by Baden who took the third, fourth and fifth and race. Esther W. won first. Miss Archdale won second. Marigold, Ruth, McGregor, The Wanderer, May Max, Lady Greengoods and Bergen started. The best time was 2:08 3/4.

In the 2:18 trot, purse \$1000, three in five (unfinished), Queen Lake won the second and third. Sunday Morning won first. Ella Todd, Amy, Proctoria Mc. Capital and May Grattan started. The best time was 2:12 3/4.

GRUELLING DAY AT STOCKHOLM FOR ATHLETES

According to the Custom of Previous Days the American Athletes Gather in a Large Plurality of the Points

BUT FAILED TO SHINE IN IMPORTANT EVENTS

Americans and English Are Learning for the First Time That They Are Not Alone in the Field of Athletics

STOCKHOLM, July 10.—The finals in six events were completed in the Olympic games today and of the thirty-six points the United States scored thirteen, England six, Germany six, Canada three, Australia three, Finland three, and France two. The United States and Germany had the honor of making a clean sweep of the weight putting and the 300 meters swimming, back stroke race respectively.

England has won the greatest race in the Olympic games so far, the 1500 meter run, in which an Oxonian, Jackson broke the record by more than six seconds. Finland won the 5000 meters in a splendid struggle against France, while a Canadian, Hodgson, brought glory to the Dominion by his victory in the fifteen hundred meters swimming contest in which he hung up three records.

Perhaps never before have there been two such contested as the 500 meter and 1500 meter runs on the same day. In the latter it was a grueling contest from start to finish. Kiviat and Tabor, American representatives, came into the stretch together. Jackson all the way round the last lap went a terrific pace, passing four men in order to get up with the leaders. Kiviat was slightly in advance ten yards from the tape and Jackson fairly leaped ahead and fell exhausted into the arms of his friends.

So close was the race for second place between Kiviat and Tabor that the judges reserved their decision until the photograph is finished and developed before announcing the second and third men.

The 5000 meters contest was practically a two men race between the Finn, Koberlainen and the Frenchman, Boin. They finished 160 yards ahead of Usan of England who beat out Boning of New York by a foot for third. Koberlainen won first by a bare yard.

This Olympic is proving that the United States and England must waive the traditional monopoly in field sports, since other nationalities have set themselves seriously to demonstrate that they are possessed of as much muscle and endurance as the pioneers in field athletics.

The distance running thus far has seemed to demonstrate that however unquerable the Americans may be in performances requiring quickness, they are apt to meet superiors when it comes to endurance. With such men as Kiviat, Jones, Sheppard, and Tabor in the 1500 meter event, the Americans had every reason to be hopeful.

The meeting shows that the veterans must be recalled to younger men taking their places. Sheppard, who at London was king of the track, found youth his better in the 1500 meters. Ralph Rose, the former Olympic winner, and record holder, has to take second place to P. J. McDonald in putting the shot, in which the winner established a new record of approximately fifty feet and four inches. At that Rose beat his old record with a put a fraction of over fifty feet.

Everything considered the United States flag went up again for the shot put. Eleven of the eleven who qualified in the final test for the pole vault are Americans and the two rounds of trials in the 200 meters sprint gave the United States four of the six men in the final competition.

In the evening the Hawaiian, Kahanamoku easily outswam the world. Incidentally Lieut. Patton, the only American officer of the forty-two contestants in the modern pentathlon, outpointed the champion of the French army in fencing and Frenchman are reported the best in the world in this diversion.

The scores tonight were: United States, 72; Great Britain including its colonies, 65; Sweden, 57; Germany, 24; France, 18; Russia including Finland, 20; Denmark, 7; Norway, 7; Italy, 5; Hungary, 4; Belgium, Greece and Austria, 3; Holland, 2.

MUST HAVE BEEN TOUCHING.

WASHINGTON, July 10.—A prisoner mother's poem woven about the desolation of her only child, so touched President Taft's heart that he today commuted, to expire at once the five and a half years sentence of May E. Brown, convicted at Salt Lake June 20, 1911 of violating the White Slave law. The trial judge and United States attorney endorsed the woman's appeal for clemency the first granted in a white slave case.